#### IMPORTANT NOTICE

THE ENCLOSED CHARGE OF DISCRIMINATION ISSUED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT GIVES YOU THE FOLLOWING IMPORTANT RIGHTS AND RESPONSIBILITIES:

#### I. Election of Civil Action or Administrative Proceeding

If you are either the person charged or any aggrieved person on whose behalf this charge is brought, you have the right to choose one of two judicial forums in which the issues involved in the charge will be heard. The two forums are: (1) a United States Government administrative proceeding before an independent United States Government administrative law judge and (2) a United States District Court (District Court).

If you want to have your case tried in a United States Government administrative proceeding, you need take <u>no</u> further action. If you take <u>no</u> further action and if <u>no</u> other person decides to go to the District Court, a United States administrative hearing <u>automatically</u> will be held before an independent United States Government administrative law judge.

IF NO PERSON ELECTS TO HAVE THE CLAIMS ASSERTED IN THIS CHARGE DECIDED IN A CIVIL ACTION IN DISTRICT COURT, AN ADMINISTRATIVE PROCEEDING WILL BE CONDUCTED BEFORE A UNITED STATES GOVERNMENT ADMINISTRATIVE LAW JUDGE:

ON: November 30, 2004

IN OR NEAR: New York, New York

at a **TIME and PLACE** set forth by another order of a United States Government Administrative Law Judge. The proceeding will be conducted in accordance with the Consolidated HUD Hearing Procedures for Civil Rights Matters set forth at 24 C.F.R. Part 180.

#### A. Advantages of Administrative Proceeding

# 1. Speed

The administrative hearing process was created by Congress to provide for a quick and inexpensive way to resolve housing discrimination charges. 42 U.S.C. Section 3612(d) & (g). The time from the issuance of the charge until the issuance of the administrative law judge's decision is about six months. In contrast, because of the large number of criminal cases in District Courts, which, under the Speedy Trial Act, take precedence over all other cases, it is not uncommon for civil

litigation such as fair housing cases to take on average at least two years to be litigated in District Court.

#### 2. Free HUD Counsel

If this case is tried in a United States Government administrative proceeding, an attorney from the United States Department of Housing and Urban Development will prosecute the case on behalf of the aggrieved person at no charge. Providing the opportunity to have a United States Department of Housing and Urban Development lawyer prosecute the case was intended by Congress to give aggrieved persons expert advice from lawyers representing the Department that is in charge of implementing the Fair Housing Act.

# 3. Remedy

The independent United States Government administrative law judge may order injunctive and other equitable relief and monetary relief for actual damages (including damages caused by humiliation), and may also impose civil penalties.

# B. Advantages of Judicial Proceeding

#### 1. Jury Trial

If this case proceeds to a District Court, any party may choose to have the case decided by a jury.

#### 2. Free Department of Justice Counsel

If the case proceeds to a District Court, an attorney from the United States Department of Justice will prosecute the case at no charge.

# 3. Remedy

The District Court can order injunctive and other equitable relief and monetary relief for actual damages (including damages caused by humiliation) and punitive damages.

# C. Procedure if an Election is made

If you decide to go to District Court, an election to do so must be <u>filed</u> with the Chief Docket Clerk, at the following address, no later than **September 29, 2004**. <u>Documents are not filed until received by the Chief Docket Clerk</u>.

Chief Docket Clerk Office of Administrative Law Judges 409 3rd Street, S.W., Suite 320. Washington, DC 20024

Telephone Number: (202) 708-5004

Facsimile Machine Number: (202) 708-5014

You also must give written notice of the election to go to District Court to the individuals listed below:

**COMPLAINANT:** Renaldo Venable

Executive Inn, Room 103 4035 State Route 33 West Neptune, New Jersey 07753

**RESPONDENTS:** Edward Farrow

79 Bay Shore Drive

Toms River, New Jersey 08753

Edward Farrow 516 First Avenue

Asbury Park, New Jersey 07712

#### OFFICIALS:

Scott A. de la Vega Trial Attorney

U.S. Department of Housing & Urban Development

Carolyn Y. Peoples

Assistant Secretary
Office of Fair Housing

Urban Development

and Equal Opportunity

Department of Housing and

Office of the Regional Counsel for NY/NJ

26 Federal Plaza, Room 3500 New York, New York 10278-0068

Linda M. Cruciani
Assistant Gen. Counsel
Fair Housing Enforcement
Department of Housing and
Urban Development
451 Seventh St., SW

Room 10270 Room 5204

Washington, DC 20410 Washington, DC 20410 If a timely election to proceed in District Court is made,

a United States Government Administrative Law Judge will mail to you a "Notice of Election of Judicial Determination."

# II. Procedural Rights and Responsibilities for Administrative Proceeding

#### A. Answer

If you are the respondent in the administrative proceeding, you must file a written answer to the attached charge by **October 4, 2004**, within 30 days of the service of the charge). The answer must include:

- 1. A statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny, each allegation made in the charge. A statement of lack of information shall have the effect of a denial. Any allegation that is not denied shall be deemed admitted.
- 2. A statement of each affirmative defense and a statement of the facts supporting each affirmative defense.

Failure to file an answer within the 30-day period following service of the Charge shall be deemed an admission of all matters of fact recited in the Charge and may result in the entry of a default decision. 24 C.F.R. Section 180.420(b).

# B. Request for Intervention

If you are the aggrieved person on whose behalf the attached charge was filed, you may participate as a party in the administrative proceeding by filing a timely request for intervention. In order for requests for intervention to be timely, they must be filed with the Chief Docket Clerk within  $50~{\rm days}$  after service of the charge. 24 C.F.R. Section  $180.310~({\rm b})$ .

#### C. Discovery

All discovery for the administrative proceeding will be completed by **November 14**, **2004**, in accordance with 24 C.F.R. Section 180.500(a).

# III. Restrictions on Respondent's Sale or Rental of Property

If at any time following the service of the attached charge, the respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of the charge, the respondent must provide a copy of the charge to such person before the respondent and that person enter into the contract, sale, encumbrance or lease.

If there is anything in this notice that you do not understand or if you have additional questions, contact: Scott A. de la Vega, Trial Attorney, at (212) 542-7209.

Attachments

#### DETERMINATION OF REASONABLE CAUSE

CASE NAME: Venable, Renaldo D. v. Farrow, Ed

CASE NUMBER: 02-04-0200-8

#### I. JURISDICTION

The complainant, Renaldo D. Venable, an aggrieved person as defined by the Fair Housing Amendments Act, 42 U.S.C. et seq., filed a verified complaint with the Department of Housing and Urban Development ("The Department"). The complainant alleged violations of the Fair Housing Act ("The Act") based on race (African-American) and sex (male). The most recent alleged discriminatory act occurred on December 19, 2003 when the Complainant asked about the subject apartment for the last time prior to filing a complaint. The complaint was timely filed with the Department on January 13, 2004. If proven, the allegations would constitute a violation of Sections 804(a) and 804(c) of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

The respondent is Ed Farrow, who is the owner of the subject property located at 516 First Avenue, Asbury Park, New Jersey. The subject property consists of more than four residential units. The respondent does not qualify as a religious or private organization and, therefore, he is not exempt under Sections 803 and 807 of the Act. The respondent does not receive Federal financial assistance.

#### II. COMPLAINANT'S ALLEGATIONS

The complainant alleges that the respondent discriminated against him because of his race (African-American) and sex (male). Specifically, the complainant asserted that, during the application process, the respondent made a racially discriminatory statement. According to the complainant, the respondent indicated a preference to not rent to African-American men by stating, "Some Black men use their apartment to sell drugs." The complainant explained that he also made derogatory remarks about Hispanics. According to the complainant, the respondent asserted, "The last people who rented this apartment were Latin. I'll never rent to those fuckers again. They're nasty." The complainant stated that he was offended by the respondent's racist remark and told the Respondent that he does not sell drugs. He indicated that he was also offended by the respondent's remarks about Hispanics. He thought it was ironic that the respondent employs Hispanic persons. He added that the respondent treated his Hispanic employees disrespectfully in public.

The complainant stated that he left the subject property under the impression that his application was approved and that he would be able to rent the apartment once the necessary repair work was completed. The complainant went back to the subject property later that day. According to the complainant, at that time, the respondent informed him that a female applicant had inquired about the apartment. He stated that when the respondent informed the applicant about the complainant, the applicant asserted, "He's a man. He can find another apartment." The complainant still believed that his application was approved. The complainant explained that the respondent never contacted him about the apartment beyond that point. He stated that he occasionally visited the subject property. The complainant stated that, on numerous subsequent occasions, the complainant attempted to contact the respondent to inquire about the status of his application and the availability of the subject apartment. According to the complainant, the respondent was very evasive and did not respond to his telephone messages. Ultimately, the complainant was never afforded an opportunity to rent the subject apartment.

#### III. RESPONDENT'S DEFENSES

The respondent never provided a written response to the subject complaint. The respondent verbally denied the allegations of discrimination. During an initial telephone conversation with the Department, the respondent indicated that he did not remember the complainant. During a subsequent telephone conversation, the respondent acknowledged that he remembered the complainant. The respondent indicated that the complainant was accompanied by a female when he initially applied. However, he stated that he did not remember if the complainant completed an application. He asserted that he has a diverse tenant population which consists of both male and female tenants and tenants of different ethnic backgrounds.

#### IV. FINDINGS AND CONCLUSION

The investigation revealed that the complainant is a member of a protected class (African-American male). It was revealed that the complainant attempted to rent an apartment at the subject property but was unsuccessful.

The investigation revealed that the subject property is an apartment building consisting of seven rental units. During the investigation, five of the apartments were occupied. The investigation further revealed that the respondent owns several other rental properties.

The investigation revealed that, in or about November 2002, the complainant visited the subject property and was seeking to rent an apartment. He was accompanied by a female companion. The complainant indicated that he completed an application for the subject apartment. The complainant stated that the respondent had contacted his Section 8 caseworker on that date. The complainant also explained that the respondent made a discriminatory racial remark during his visit. According to the complainant, the respondent indicated a preference to not rent to African-American men by stating, "Some Black men use their apartment to sell drugs." The complainant explained that he also made derogatory remarks about Hispanics. According to the complainant, the respondent asserted, "The last people who rented this apartment were Latin. I'll never rent to those fuckers again. They're nasty."

The respondent did not provide a written response to these allegations. Initially, the respondent indicated that he did not remember the complainant. The respondent subsequently acknowledged that he remembered the complainant. The respondent indicated that the complainant was accompanied by a female when he initially applied. However, he stated that he did not remember if the complainant completed an application.

The investigation revealed that the complainant did complete his application. During an interview with the Department, the complainant's caseworker stated that the respondent submitted Section 8 paperwork regarding the complainant's application. The caseworker stated that, during the complainant's initial application process, she attempted to contact the respondent because the paperwork was incomplete and unorganized. On that occasion, she spoke with the respondent's maintenance worker who assisted in completing the paperwork. According to her, the subject apartment was scheduled to be ready in approximately one week. Therefore, she scheduled an appointment to perform an inspection. She stated that the respondent telephoned her to cancel this appointment. According to the caseworker, the respondent never contacted her after that cancellation. She indicated that she made numerous unsuccessful efforts to contact the respondent to schedule another inspection date. Consequently, she was never able to inspect the subject apartment. She explained that she had a "bad feeling" about the respondent and believed that the respondent was giving her "a runaround."

The investigation revealed that the respondent made derogatory racial remarks to the complainant. During an interview with the Department, the complainant's female companion verified the alleged racist remarks. According to her, the respondent stated, "A lot of Black people turn out to be drug dealers." She explained that she did not respond to the remark and the complainant denied the notion that he sold drugs. The complainant's witness asserted that the respondent indicated that the complainant's application was approved and that he could occupy the subject apartment once the repairs were completed. She stated that she was also present when the respondent later informed the complainant that a female applicant inquired

about the apartment. According to her, the respondent explained that the female applicant indicated that she was desperate for an apartment and that the complainant should be able to find another apartment because he is a man.

The investigation revealed that the subject apartment was rented a Hispanic female. She indicated that she applied for the subject apartment in June 2003 and moved into the apartment in July 2003.

The investigation revealed that the respondent currently rents to seventeen tenants at four different properties. It was revealed that two of the tenants are African-American females. During interviews with the Department, one of the African-American tenants indicated that she did not experience any discrimination during her application process or tenancy. However, the other African-American tenant cited numerous racist statements and innuendos which she experienced during her application process. She stated that the respondent made numerous allegations and innuendos about drug trafficking. Specifically, according to her, the respondent threatened to install cameras outside of her residence and informed her that he would know if she was selling drugs. She also explained that the respondent asked numerous personal questions about the fathers of her children. She believes that the respondent asked those questions and made constant references to drugs because she is African-American. She asserted that the respondent threatened her by saying, "If I have to drag you into court, I'll make sure you lose your Section 8." She stated that, during the application process, he made racist remarks against former tenants who were Mexican. According to this tenant, the respondent indicated that he hated Mexicans. She explained that he blamed the former tenants for destroying the kitchen. According to her, the respondent stated, "Fucking Mexicans lived here. I don't know if they were making fucking tacos. They burnt my whole kitchen." The tenant explained that, after her application was approved and she was promised an opportunity to rent the house, the respondent offered to rent the house to her Caucasian friend instead. She stated that her friend visited the property and the respondent inquired if she was interested in renting the property. The tenant indicated that the respondent made a racial remark about her friend's interracial son. According to her, the respondent stated, "Oh, you like Black men." She explained that she has not dealt directly with the respondent since she began residing in her rental house. The tenant believes that she was treated differently during the application process because she is African-American. She believes that the respondent would not have made numerous innuendos and accusations about her selling drugs if she were Caucasian. She also believes that the respondent would not have assumed that her children had multiple fathers if she was Caucasian. The Department interviewed a friend and a family member of this tenant who verified the above-mentioned remarks.

The investigation revealed that the racist statements made to the African-American tenant mirror the statements allegedly made to the complainant. The investigation further revealed that, after informing this tenant that her application was approved, the respondent attempted to rent her house to her Caucasian friend. These actions were consistent with the complainant's alleged experiences.

For the above-mentioned reasons, there is reasonable cause to believe that the respondent has engaged in discriminatory housing practices based on the complainant's race and sex (African-American male), as alleged. It has been determined that the respondent made discriminatory remarks regarding the complainant's race and sex, which constitutes a violation of Section 804(c) of the Act. It has also been determined that the subject rental unit was ultimately rented to a Hispanic female and that none of the respondent's tenants were African-American men. The respondent's indicated preference not to rent to African-American men constitutes a violation of Section 804(a) of the Act.

#### V. ADDITIONAL INFORMATION

Notwithstanding this determination by HUD, the Fair Housing Act provides that the complainant may file a civil action in an appropriate federal district court or state court within two years after the occurrence or termination of the alleged discriminatory housing practice. The computation of this two-year period does not include the time

during which this administrative proceeding was pending. In addition, upon the application of either party to such civil action, the court may appoint an attorney, or may authorize the commencement of or continuation of the civil action without the payment of fees, costs, or security, if the court determines that such party is financially unable to bear the costs of the lawsuit.

A copy of the final investigative report can be obtained from: Director, New York/New Jersey Hub, Office of Fair Housing & Equal Opportunity, U.S. Department of Housing and Urban Development, Room 3532, 26 Federal Plaza, New York, New York 10278-0068.

Date Stanley Seidenfeld

Director
New York/New Jersey Region
Office of Fair Housing and
Equal Opportunity

# UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States Department		)	
of Housing and Urban Development,		)	
on behalf of Renaldo Venable			)
		)	
		)	
	Charging Party,	)	FHEO No. 02-04-0200-8
		)	
V.		)	
		)	
Edward Farrow,		)	
ŕ		)	
	Respondent.	)	
	1	)	

#### CHARGE OF DISCRIMINATION

## I. <u>JURISDICTION</u>

On or about January 13, 2004, Complainant, Renaldo Venable, an aggrieved person, filed a timely verified complaint with the U.S. Department of Housing and Urban Development ("HUD"), alleging that the Respondent discriminated against him based upon his race and sex in violation of the Fair Housing Act ("Act"), *as amended*, 42 U.S.C. §§ 3601-3619. HUD's efforts to conciliate the complaint were unsuccessful.

The Act authorizes the issuance of a Charge of Discrimination ("Charge") on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1) and (2). The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegated to the Regional Counsel (67 Fed.Reg. 44234), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Director of the Office of Fair Housing and Equal Opportunity for the New York/ New Jersey Region, on behalf of the Assistant Secretary, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred and has authorized the issuance of this Charge of Discrimination.

# II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the complaint and the attached Determination of Reasonable Cause, the Respondent is hereby charged with violating the Act, specifically, 42 U.S.C. §§ 3604(a) and (c), as set forth below.

- 1. It is unlawful to refuse to rent, to refuse to negotiate for the rental of, or otherwise make unavailable or deny, a dwelling to any person because of race or sex. 42 U.S.C. § 3604(a).
- 2. It is unlawful to make, or cause to be made, any statement with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on race or sex with the intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c).
- 3. At all times relevant herein, Respondent Edward Farrow owned the subject property located at 516 First Avenue, Asbury Park, New Jersey. The property consists of seven rental units.
- 4. Complainant Renaldo Venable is an African-American man.
- 5. On or about November 1, 2002, the Complainant visited the subject property for the purpose of seeking to rent a vacant, available apartment. While completing the application the Respondent stated, "Some Black men use their apartment to sell drugs," or words to that effect. The Complainant was offended and told the Respondent that he does not sell drugs. The Respondent also stated, "The last people who rented this apartment were Latin. I'll never rent to those fuckers again. They're nasty."
- 6. On or about November 1, 2002, at the initial visit, the Complainant completed the application and related paperwork to rent the apartment. Based on the Respondent's statement that the apartment would be ready for rental once necessary repairs were made, the Complainant believed that the Respondent was going to rent the apartment to him.
- 7. On or about November 1, 2002, upon returning to the subject property later on the day of the initial visit, the Respondent told the Complainant that a female applicant was interested in the same apartment, however, the Respondent did not state that he would no longer rent the apartment to the Complainant.
- 8. The Respondent did not contact the Complainant again. Over the course of the next several months, the Complainant and his Section 8 caseworker continued to inquire about the apartment. The Respondent was often evasive, stating that he was too busy to respond to the Complainant, and at other times simply did not return the Complainant's telephone calls. The caseworker stated the Respondent cancelled an appointment for her to inspect the apartment and despite numerous attempts to reschedule, the Respondent was not responsive and was uncooperative.
- 9. The subject apartment was ultimately rented to a Hispanic female.
- 10. The Respondent has a history of making racially derogatory statements to his tenants and potential tenants, including statements similar to the remarks made to the Complainant at the initial application interview.

- 11. The Respondent owns and manages several single and multifamily properties consisting of approximately twenty residential units in total. The tenants are a diverse mix of African-American females, Hispanic (males and females) and Caucasians (males and females), however, there are no African-American male tenants.
- 12. The Respondent committed unlawful discrimination by refusing to rent and refusing to negotiate for the rental of, and otherwise making unavailable and denying a dwelling because of the Complainant's race and sex. 42 U.S.C. § 3604(a).
- 13. The Respondent committed unlawful discrimination by making statements with respect to the rental of a dwelling that indicated a preference, limitation, and discrimination based on race and sex with the intention of making such a preference, limitation, and discrimination. 42 U.S.C. § 3604(c).
- 14. As a result of Respondent's discriminatory conduct, the Complainant suffered damages, including inconvenience, loss of an important housing opportunity, emotional and physical distress and embarrassment and humiliation.

# III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Regional Counsel for New York/ New Jersey, hereby charges the Respondent with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(a) and (c), and prays that an order be issued, pursuant to 42 U.S.C. § 3612(g)(3), that:

- 1. Declares that the discriminatory housing practices of the Respondent, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601 3619;
- 2. Enjoins Respondent, his agents, employees, and successors, and all other persons in active concert or participation with him from discriminating against any person, in violation of the Fair Housing Act, in any aspect of the rental or sale of a dwelling;
- 3. Awards such damages as will fully compensate Complainant for their damages caused by Respondent's discriminatory conduct;
- 4. Awards an \$11,000 civil penalty against Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3); and
- 5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

as may be appropriate under 42 U.S.
Respectfully submitted,

Henry S. Czauski Regional Counsel for New York/ New Jersey

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Scott A. de la Vega Trial Attorney U.S. Department of Housing and Urban Development Office of Regional Counsel 26 Federal Plaza, Room 3500 New York, New York 10278-0068 (212) 542-7209

DATE: September 3, 2004

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of September 2004, the foregoing copies of the "Charge of Discrimination," "Determination of Reasonable Cause" and the accompanying "Notices" in FHEO Case # 02-04-0200-8 were sent via **Federal Express** to the following:

Edward Farrow 79 Bay Shore Drive Toms River, New Jersey 07753

Edward Farrow 516 First Avenue Asbury Park, New Jersey 07712

and to:

Renaldo Venable Executive Inn, Room 103 4035 State Route 33 West Neptune, New Jersey 07753

and to:

Chief Docket Clerk
Office of Administrative Law Judges
U.S. Department of Housing and Urban Development
409 3<sup>rd</sup> Street, S.W., Suite 320
Washington, D.C. 20024

via Federal Express and facsimile transmission.

Linda Marks Legal Assistant